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*ATTORNEYS FOR DEFENDANT*  
*PARK COUNTY, WYOMING, PARK*  
*COUNTY SHERIFF'S DEPARTMENT AND*  
*SHERIFF SCOTT STEWARD IN HIS*  
*OFFICIAL CAPACITY*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

JAMES WILCOX,  
KELLY WILCOX,  
WILCOX LIVESTOCK, LLC,  
JESSE WILCOX,

Plaintiffs,

vs.

Deputy ANDREW MAGILL,  
in his individual capacity,  
Deputy MARK HARTMAN  
in his individual capacity,  
Brand Inspector DAN HADDEN,  
in his individual capacity,  
Sheriff SCOTT STEWARD,  
in his official and individual capacities,  
PARK COUNTY SHERIFF'S OFFICE,  
PARK COUNTY, WYOMING,  
RHONDA ROBINSON,  
a citizen and resident of South Carolina,

Defendants.

CIVIL NO. 10-CV-210J

**MOTION TO DISMISS PURSUANT TO RULE 12(B)(6), Fed.R.Civ.P.  
BY DEFENDANTS PARK COUNTY, WYOMING,  
PARK COUNTY SHERIFF'S OFFICE AND SHERIFF SCOTT STEWARD  
IN HIS OFFICIAL CAPACITY**

COMES NOW the Defendants Park County, Wyoming, Park County Sheriff's Office and Sheriff Scott Steward in his Official Capacity, by and through their attorneys, Larry B. Jones and William L. Simpson of Simpson, Kepler & Edwards LLC, the Cody, Wyoming division of BURG SIMPSON ELDREDGE HERSH & JARDINE, P.C., and respectfully move for an Order Dismissing Counts I, and II of the Amended Complaint filed herein pursuant to Rule 12(b)(6), Fed.R.Civ.P. for a failure to state a cause of action. These Defendants further request the Court enter an Order dismissing Counts III, V and VI of the Amended Complaint under the doctrine of abstention. In support of their Motion, Defendants assert as follows:

1. Plaintiffs filed their original complaint on September 28, 2010 and their Amended Complaint on November 8, 2010.
2. Counsel for these Defendants have filed their entries of appearances on behalf of their clients on November 5, 2010 and November 8, 2010.
3. Plaintiffs' first two counts of the Amended Complaint contain allegations purporting to set forth sufficient claims for 1) deprivation of property without due process under § 1983; and 2) conspiracy under § 1983;

4) Counts III, V and VI of the Amended Complaint contain allegations purporting to set forth state law claims. Count IV of the Amended Complaint is alleged solely against the non-governmental entity/party Rhonda Robinson;

5) Defendants Deputy Andrew MaGill, Deputy Mark Harman, Brand Inspector Dan Haddens, and Sheriff Scott Steward in his individual capacity have filed a Motion and supporting Memorandum of Law to Dismiss this matter contemporaneously with this Motion, which these Defendants now join.

6) Plaintiffs' § 1983 allegations fail to adequately set forth cognizable claims under the United States Constitution;

7) This Court should decline to exercise jurisdiction over the pendent state claims; and

8) These Defendants submit herewith their Memorandum of Law in support of this Motion to Dismiss.

**WHEREFORE** Defendants Park County, Wyoming, Park County Sheriff's Office and Sheriff Scott Steward in his Official Capacity respectfully request the Court, after an opportunity by all Parties to submit supporting or opposing argument, enter an Order:

a) Dismissing, for a failure to state a claim under Rule 12(b)(6), Fed.R.Civ.P., Counts I and II of the Amended Complaint;

b) Dismissing Counts III, V and VI of the Amended Complaint based upon their

nature as state claims; and

c) Granting such additional relief as the Court deems appropriate under the circumstances.

DATED this \_29th\_ day of November, 2010.

Respectfully submitted,  
BURG, SIMPSON, ELDREDGE, HERSH,  
& JARDINE, P.C.

\_\_\_\_\_/s/\_\_\_\_\_  
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*Sheriff Scott Steward in his Official Capacity*